

Steven P. Lehotsky* (DC 992765)
 Michael B. Schon* (DC 989893)
 LEHOTSKY KELLER COHN LLP
 200 Massachusetts Ave., NW, Suite 700
 Washington, DC 20001
 Telephone: (512) 693-8350
 Email: steve@lkcfirm.com
 Email: mike@lkcfirm.com

Katherine C. Yarger* (CO 40387)
 LEHOTSKY KELLER COHN LLP
 700 Colorado Blvd., #407
 Denver, CO 80206
 Email: katie@lkcfirm.com
 Telephone: (512) 693-8350

Bradley A. Benbrook (SBN 177786)
 Stephen M. Duvernay (SBN 250957)
 BENBROOK LAW GROUP, PC
 701 University Avenue, Suite 106
 Sacramento, CA 95825
 Telephone: (916) 447-4900
 Email: brad@benbrooklawgroup.com

*Attorneys for Proposed Intervenors American
 Fuel & Petrochemical Manufacturers,
 American Petroleum Institute, and the
 National Association of Convenience Stores*

* Admitted *pro hac vice*

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

STATE OF CALIFORNIA, et al.,)

Plaintiffs,)

v.)

UNITED STATES OF AMERICA; U.S.
 ENVIRONMENTAL PROTECTION
 AGENCY; LEE ZELDIN, in his official
 capacity as Administrator of the U.S.
 Environmental Protection Agency; and
 DONALD J. TRUMP, in his official
 capacity as President of the United
 States,)

Defendants.)

Case No. 4:25-cv-04966

**PROPOSED INTERVENORS' NOTICE OF
 MOTION AND MOTION FOR LEAVE TO
 FILE MOTION TO DISMISS PLAINTIFFS'
 AMENDED COMPLAINT**

Date: January 29, 2026

Time: 2:00 p.m. PST

Judge: Hon. Haywood S. Gilliam, Jr.

NOTICE

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 29, 2026 at 2:00 p.m. PST, or as soon thereafter as this matter may be heard in the United States District Court for the Northern District of California, 1301 Clay Street, Courtroom 2 (4th Floor), Oakland, CA 94612, Proposed Intervenor American Fuel & Petrochemical Manufacturers, American Petroleum Institute, and the National Association of Convenience Stores will move for leave to move to dismiss this case pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

RELIEF SOUGHT BY THE MOVANTS

The Proposed Intervenor seeks an order granting them leave to file the attached Motion to Dismiss Plaintiffs' Amended Complaint and Proposed Order.

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF ISSUES

1. Whether Proposed Intervenor may file their Motion to Dismiss Plaintiffs' Amended Complaint and Proposed Order.

BACKGROUND

California and ten other States filed this suit challenging three Joint Resolutions of Congress that preempted three California programs, the Advanced Clean Trucks, Advanced Clean Cars II, and the "Omnibus" Low NOx programs. *See* Dkt. 1. Proposed Intervenor, which are associations harmed by these California programs, moved to intervene in this suit, *see* Dkt. 61, and attached a motion to dismiss with their motion to intervene, Dkt. 61-5. That motion to intervene is fully briefed and has been taken under submission. *See* Dkt. 160. The Government Defendants also moved to dismiss Plaintiffs' complaint, Dkt. 118, and shortly thereafter, rather than responding, Plaintiffs filed an amended complaint, *see* Dkt. 157. The Court then granted a stipulated briefing schedule. Dkt. 162. In accordance with that schedule, yesterday, the Government filed a motion to dismiss the amended complaint. Dkt. 162. Proposed Intervenor now moves for leave to file a Motion to Dismiss Plaintiff's Amended Complaint, attached as Exhibit A, and an accompanying Proposed Order, attached as Exhibit B.

1 **ARGUMENT**

2 Because Proposed Intervenor's motion to intervene remains pending, *see* Dkt. 61; Dkt. 160,
3 Proposed Intervenor's seek leave to file a Motion to Dismiss Plaintiff's Amended Complaint,
4 attached as Exhibit A, and an accompanying Proposed Order, attached as Exhibit B.

5 Allowing Proposed Intervenor's Motion to Dismiss now promotes efficiency. If intervention
6 is granted, the Motion to Dismiss will already be on file and ready for resolution without further
7 delay. No party will be prejudiced by this conditional filing.

8 **CONCLUSION**

9 For the foregoing reasons, Proposed Intervenor's respectfully request that their Motion for
10 Leave to File Motion to Dismiss Plaintiff's Amended Complaint be granted.

11
12 Dated: November 18, 2025 Respectfully submitted,

13 /s/ Steven P. Lehotsky
14 Steven P. Lehotsky* (DC 992765)
15 Katherine C. Yarger* (CO 40387)
16 Michael B. Schon* (DC 989893)
17 LEHOTSKY KELLER COHN LLP

18 Bradley A. Benbrook (SBN 177786)
19 Stephen M. Duvernay (SBN 250957)
20 BENBROOK LAW GROUP, PC

21 *Attorneys for Proposed Intervenor's American*
22 *Fuel & Petrochemical Manufacturers, American*
23 *Petroleum Institute, and the National Association*
24 *of Convenience Stores*

25 * Admitted *pro hac vice*
26
27
28